

IV. AMENDMENTS TO THE DRAWINGS

--- Replacement and annotated mark-up drawing sheets for amended figures showing the amended figures, if any, are attached at the Appendix hereto. Each figure is in compliance with 37 C.F.R. § 1.84. An explanation of the changes, if any, is set forth below in this "Amendments to the Drawings" section. Replacement drawing sheets are identified in the top margin as "Replacement Sheet." Any replacement drawing sheet including amended figures includes all of the figures appearing on the immediate prior version of the sheet. Any annotated drawing sheets, if the same are required by the Examiner, are identified in the top margin as "Annotated Marked-Up Drawings." Any deleted figure is noted by an instruction to delete the figure. Any corresponding amendment to the specification necessary to be made because of an amendment to the drawings in this section is made in the corresponding "Amendments to Specification" section.

- *THE DRAWINGS OF THE PATENT IS HEREBY AMENDED AS SET FORTH BELOW:*
 - *No Amendment Made to the Drawings*
 - *Attachments: None*

V. REMARKS/ARGUMENTS

- STATUS OF THE CLAIMS

Claims 2-6 remain pending in this application. Claims 4 and 5 are allowed. Claims 2-3 and 6 stand rejected.

- ALLOWANCE OF CLAIMS

At section 4, page 3 of the Office Action, Examiner indicates that claims 4 and 5 of the instant application are allowable over prior art of record. Applicants thank the Examiner for his comments, and duly note the allowance of claims 4 and 5.

- OBJECTIONS

- OBJECTIONS TO CLAIMS, SPECIFICATION & DRAWINGS

- Examiner's Stance

The Examiner has raised no objections to the claims, specification or drawings.

- Applicants' Response

N/A

- REJECTIONS

- PROVISIONAL REJECTION UNDER OBVIOUSNESS DOUBLE PATENTING

- Examiner's Stance

The Examiner has provisionally rejected claims 2, 3, and 6 under the doctrine of obviousness-type double patenting over claims 1-17 of copending (as of 04/09/2007) Application serial no. 10/418898. The Examiner states (pages 2-3, section 3 of the Office Action) that although the conflicting claims are not identical, they are not patentably distinct each to the other, asserting that in sections [0083-0104] the copending application embraces the claimed phenothiazines. The rejection is provisional because the conflicting claims have in fact not been patented.

• Applicants' Response

Application No. 10/418898 stands abandoned as of June 5, 2007 (mail date). Documentation to this fact is found in the Appendix, as 1) Office Communication dated 06/05/2007 (2 pages) and 2) print-out of Bibliographic Data on Application No. 10/418,898 showing abandoned status (1 page). Continuation Application No. 11/755618, incorporating slightly modified claims 1-17 of Application No. 10/418898, was filed by Applicants on 05/30/2007. Applicants therefore address comments towards claims 1-17 of Application No. 11/755618, now of relevance to the present matter.

Applicant disagrees with the examiner that the claims at question are conflicting with claims 2, 3, and 6 of the instant application; however, Applicants agree to appropriately file a terminal disclaimer on any such conflicting claims in Application No. 11/755618, should such claims issue.

In view of the fact that the Examiner raised no other issues with claims 2, 3, and 6, Applicants therefore respectfully request that claims 2, 3, and 6 be allowed.

CONCLUSION TO REMARKS

Applicants assert that this response is fully responsive to the Examiner's office action dated April 13, 2007 application herewith. Applicants respectfully seek early allowance of the pending claims.

Respectfully Submitted,



John S. Winterle, Ph.D.
Agent for Applicants
Kelley Drye & Warren LLP
400 Atlantic Street 13th Floor
Stamford, CT 06901-3512
jwinterle@kellydrye.com